

**UNITED STATES BANKRUPTCY COURT  
FOR THE EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION**

In re: ) Chapter 9  
          )  
CITY OF DETROIT, MICHIGAN, ) Case No. 13-53846  
          )  
Debtor.         ) Hon. Steven W. Rhodes  
          )  
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**AFSCME COUNCIL 25's MOTION FOR RECONSIDERATION**

NOW COMES Michigan AFSCME Council 25 with this Motion for Reconsideration of This Honorable Court's October 31, 2014 Order, and for its Motion AFSCME states as follows:

1. This Court issued an order permitting AFSCME to pursue its motion to lift the automatic stay of this Bankruptcy Court, concerning reorganization of the Detroit Water and Sewerage Department. AFSCME has lost positions due to a departmental reorganization, and sought to lift the stay in order that the hearing before the Michigan Employment Relations Commission could proceed. (Docket No. 7764) The Court indicated that Judge Sean Cox, which had issued an order concerning reorganization in litigation wherein the City was a defendant, should pass on whether he or the MERC should preside over AFSCME's dispute.

2. On October 14, this Honorable Court issued a supplemental order, requiring AFSCME to file a motion to clarify with Judge Cox by or before October 21, 2014. (Docket No 7949)

3. Unfortunately, AFSCME did not receive notice of this Order.

4. The electronic mail system which delivered the Bankruptcy Court notices and orders to AFSCME malfunctioned, due to corruption on the server hard drive which hosted the electronic mail. The system was restored to working order after removing the electronic mail system to a completely new server. This happened during the latter part of October 2014.

5. AFSCME apologizes to the Court for not complying with its October 14<sup>th</sup> Order. The corruption on the hard drive apparently prevented delivery of the email providing notice of the Court's October 14<sup>th</sup> Order.

6. On October 31, 2014, this Court issued an order denying AFSCME's motion to lift stay, due to the motion for clarification not having been filed by or before October 21<sup>st</sup>. AFSCME now seeks reconsideration of that Order. (Docket No 8142)

7. Federal Rules of Bankruptcy Procedure, Rule 9006(b)(1) empowers a bankruptcy court to permit a late filing if the movant's failure to comply with an earlier deadline "was the result of excusable neglect." In *Pioneer Inv. Services Co. v. Brunswick Associates Ltd.*, 507 U.S. 380, 388 (1993), the Supreme Court held that

“Congress plainly contemplated that the courts would be permitted, where appropriate, to accept late filings caused by inadvertence, mistake, or carelessness, as well as by intervening circumstances beyond the party's control.”

8. Here, AFSCME requests that this Court consider the failure to comply with its October 14<sup>th</sup> Order as excusable neglect, and that it be permitted to file the motion on Wednesday, November 5, 2014.

WHEREFORE, AFSCME respectfully requests that this Court reconsider its October 31, 2014 Order denying AFSCME’s Motion to lift stay, and permit a filing of the AFSCME motion to clarify by or before November 5, 2014.

Dated: November 4, 2014

/s/ Richard G. Mack, Jr.

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**ORDER GRANTING THE AFSCME MOTION FOR RECONSIDERATION**

This matter coming before the Court on the AFSCME's *Motion for Reconsideration* of its October 31, 2014 *Order* and the Court having determined that the legal and factual bases as set out in the motion establish just cause for relief;

**IT IS HEREBY ORDERED THAT:**

The Motion is GRANTED.

Dated: \_\_\_\_\_ Honorable Steven W. Rhodes  
United States Bankruptcy Judge

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**CERTIFICATE OF SERVICE**

The undersigned certifies that on November 4, 2014, the *American Federation of State, County and Municipal Employees Council 25's Motion for Reconsideration*, with the Clerk of the Court for the United States Bankruptcy Court, Eastern District of Michigan, Southern Division using the CM/ECF System, which will send notification of such filing to all attorneys and parties of record registered electronically.

/s/ Richard G. Mack, Jr.

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